

USAWC STRATEGY RESEARCH PROJECT

**A ROAD MAP FOR NATIONAL SECURITY:
THE INTERSECTION OF THE DEPARTMENTS OF HOMELAND SECURITY AND
DEFENSE**

by

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ABSTRACT

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The country remains in transition, because of the tragic events of 9/11: the federal government, our military, and the American way of life are in transformation. Four years after September 2001, homeland security experts continue realigning a new department and defining the roles and responsibilities of twenty-two combined legacy federal agencies and 188,000 employees. Likewise, a dozen years after the Cold War, defense experts continue determining the most important features of the national strategic landscape. During this period of adjustment, Americans have reasonable expectations that law enforcement will secure our homeland and warfighters will defend this great nation. Our leadership will only meet these expectations through a shared strategic vision for securing and defending our future. This project reviews the roles and responsibilities of the Departments of Homeland Security and Defense as legislated by the United States Congress and articulated in the President's *National Security Strategy* and supporting strategies. It then examines the intersection of homeland security-homeland defense missions as one department provides a law enforcement capability and the other a warfighter capability—each to secure our homeland and defend our nation. Finally, this analysis recommends the development of a shared plan for orchestrating homeland security and national defense.

A ROAD MAP FOR NATIONAL SECURITY: THE INTERSECTION OF THE DEPARTMENTS OF HOMELAND SECURITY AND DEFENSE

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When President George W. Bush released the *National Security Strategy* (NSS) of the United States, the White House provided the architecture for a unified national security policy and strategy. The President wrote, "Defending our Nation against its enemies is the first and fundamental commitment of the Federal Government."¹ The White House recognized our past enemies needed great armies and industrial capabilities to endanger America. Now, "America faced shadowy networks of individuals [terrorists] who can bring great chaos and suffering to our shores for less than it costs to purchase a single tank."²

The NSS provides vision to transform America's national security institutions to prevent attacks against the US and our allies, defeat global terrorism, and prevent threats from Weapons of Mass Destruction (WMD).³ The NSS enjoins interagency support—the Department of Homeland Security (DHS) and the Department of Defense (DoD) provide homeland security and homeland defense, respectively.⁴ DHS's primary mission predicates three security objectives: prevent terrorist attacks against the US; reduce the US's vulnerability to terrorism; and, minimize the damage, and assist in the recovery, from terrorist attacks that occur within the US.⁵ Four tasks guide DoD's security objectives: secure the US from direct attack; secure

strategic access and retain global freedom of action; strengthen alliances and partnerships; and, establish favorable security conditions.⁶

National Security Legislation Mandates DHS and DoD's Roles and Responsibilities

In 1947, President Harry S. Truman signed into law the National Security Act (NSA), the landmark US national security legislation for the latter half of the 20th century.⁷ This legislation provided the mechanism to secure our homeland; it undergirded our diplomatic efforts, provided the basis to establish our military capabilities, and focused our intelligence assets. Presumably, the NSA fulfilled the need for additional national security legislation; but President Truman and the 80th Congress never envisioned a terrorist attack fifty years later in New York City and Washington, D.C. rivaling the Japanese attack on Pearl Harbor. On September 20, 2001, President Bush addressed a joint session of Congress and stated, "Terrorists attacked a symbol of American prosperity. They did not touch its source. America is successful because of the hard work, creativity, and enterprise of our people."⁸ One year later, the President released the NSS and provided direction to transform America's national security institutions to meet the challenges and opportunities of the 21st century.⁹ The 106th Congress quickly followed with homeland security legislation.

The world changed dramatically in the last fifty years and particularly in the last decade. Institutions designed in another age may not be appropriate for the future. The US Commission on National Security/21st Century's instruction was to examine precisely that question.¹⁰ In February 2001, the Hart-Rudman Commission provided their final recommendations to Congress and articulated the immediate need for additional national security legislation and a new department to provide homeland defense.¹¹ Originally, Congress was slow acting on Hart-Rudman's recommendations for sweeping governmental transformation and massive organizational change.

Consequently, on September 12, 2001, a united Congress stood on the steps of Capitol Hill pledging its commitment to this great nation, our President, and our people. Nine months later, on June 24, 2002, the 107th Congress first introduced House of Representatives (H.R.) 4660 calling for the establishment of the Department of National Homeland Security and the National Office for Combating Terrorism.¹² Five months later on November 25, 2002, a unified House and Senate passed H.R. 5005 and President Bush signed the 2002 Homeland Security Act (HSA) establishing the Department of Homeland Security.¹³

The HSA established an executive department with the mandate to prevent terrorist attacks within the US; reduce the US's vulnerability to terrorism; minimize the damage, and

assist in the recovery, from terrorist attacks occurring within the US; and, carry out all functions of entities transferring to DHS.¹⁴ The HSA vested primary responsibility for investigating and prosecuting acts of terrorism in federal, state, and local law enforcement agencies with proper jurisdiction, except as specifically provided by law, to DHS.

Congress created DHS with the legal authority, among other things, to protect the American people from the continuing threat of terrorism.¹⁵ The Federal Bureau of Investigation (FBI) within the Department of Justice (DOJ) has the mandate to investigate, enforce, and prosecute acts of terrorism against the US. Similarly, Customs and Border Protection (CBP) and Immigration and Customs Enforcement (ICE) within DHS have the mandate to enforce, investigate, and prosecute violations against Immigration and Customs laws. Accordingly, in providing for homeland security, DHS has to work within the construct of the NSS and in concert with the rest of the interagency.

On March 01, 2003, the federal government merged several law enforcement organizations from within the Departments of Agriculture, Justice, Transportation, and Treasury into DHS with the authority to prevent acts of terrorism and secure our borders.¹⁶ DHS leadership faced many challenges in merging several diverse agencies and legacy employees. The US Coast Guard (USCG) moved from the Transportation Department and the US Secret Service (USSS) moved from the Treasury Department as stand-alone agencies. The Treasury Department's US Customs Service (USCS) and the Justice Department's Immigration and Naturalization Service (INS) divided and merged into three separate agencies.¹⁷ The USCS, INS, and the Agriculture Department's "inspection" functions merged into the new CBP; the USCS's Office of Air and Marine Operations (AMO) and INS's Border Patrol moved into CBP as stand-alone offices. The USCS and INS's "investigative" functions merged into the new ICE; ICE inherited INS's Office of Detection and Removal (D&R), GSA's (General Services Administration) Federal Protective Service (FPS), and DHS's intelligence responsibilities as stand-alone offices. The USCS and INS's "naturalization" functions moved to Citizenship and Immigration Services (CIS) as a stand-alone agency. The Transportation Department's Transportation Security Administration (TSA) moved along side CBP and ICE underneath the newly created, Border and Transportation Security directorate (BTS). Lastly, the Federal Emergency and Management Agency (FEMA) moved into the department under the Emergency Preparedness and Response directorate. DHS also assembled Offices of Legislative Affairs, Public Affairs, Information Analysis and Infrastructure Protection, Science and Technology, and a multitude of other administrative and logistical offices.¹⁸

Before the agency could prevent acts of terrorism and secure our nation's borders, DHS required a strategic vision for promoting an efficient and effective business climate for a coordinated law enforcement agency.¹⁹ In addressing the American Enterprise Institute in September 2003, DHS Secretary Tom Ridge stated:

Every day Homeland Security works to deliver on our mission to better prevent, prepare, and respond to a terrorist attack. We pursued that mission not merely by setting up one authority for 22 different agencies, but by setting goals and meeting them, and we are, and we will.²⁰

By then introducing the DHS strategic plan in 2004, Secretary Ridge provided vision for 188,000 employees to embrace their new agency partners, inside and outside of DHS, and their mandate of preventing acts of terrorism and securing the homeland. As a strategic leader, the Secretary translated the President's vision into DHS goals and objectives as the agency implemented a homeland security strategy. Simultaneously, Secretary Ridge led DHS through organizational change as the department began to execute missions in support of the NSS. Upon inception, DHS began a transformation.

The NSA transformed the US Armed Forces, foreign policy, and intelligence community. In creating a Defense Department, the Act established an independent US Navy and Marine Corps and separated the US Air Force from the existing US Army. Initially, each of the three branches maintained quasi-cabinet status through their individual secretaries, but in 1949 Congress amended the NSA to assure their subordination to the Defense Secretary.²¹ The 1986 Goldwater-Nichols DoD Reorganization Act sought improved military effectiveness through greater jointness in planning and conducting military operations.²²

Congress created the Defense Department with the mandate, among other things, to defend the American people from the threat of war. DoD was to "provide for coordination of the activities of the National Military Establishment with other departments and agencies of the Government concerned with the national security."²³ Hence, DoD's primary mission is to deter war and to protect the US. In addition to warfighting and homeland defense, DoD's roles and responsibilities may include humanitarian, peacekeeping, and evacuation missions outside of the United States, and similar missions in support of civil authorities within our borders. Because of past legislation, a DoD realigned and reorganized works within the construct of the NSS and in concert with the rest of the interagency in providing homeland defense.

In his October 2005 guidance, General Peter Pace commented on accelerated military transformation and articulated three priorities to the Joint Chiefs of Staff. The Chairman wrote:

Transformation is a continual process, not an end state. We must transform if we are to meet future challenges. Transformation is concepts and practices,

technologies and capabilities, roles and missions, organizational structures, internal processes, doctrine and education, personnel policies, and much more.²⁴

Besides military transformation, General Pace's priorities were to win the war on terrorism and strengthen joint war fighting.²⁵ He wrote, "The goal of warfighting must be to produce a force capable of swiftly and decisively defeating any enemy. It is a prerequisite to win the War on Terrorism and will significantly accelerate and be accelerated by transformation."²⁶ As a strategic leader, the Chairman translated the President's vision into goals and objectives for the Armed Forces.

The President, in formulating strategic priorities for all federal institutions, provides guidance through the Executive Budget submitted annually to Congress. The budget process affords the Legislative Branch a "check and balance" of the Executive Branch; equally, in its authorization and appropriation of funds, Congress monitors the domestic missions and capabilities provided by DHS in a homeland security role in concert, or in contrast, with the missions and capabilities provided by DoD in a homeland defense role. Congress is mindful of the different legal authorities and associated responsibilities inherent in enforcing laws and warfighting.²⁷

In his Fiscal Year (FY) 2006 Budget Message, President Bush outlined his vision for ensuring our security at home and stated "the 2006 budget increases funding for anti-terrorism investigations; border security; airport and seaport security; nuclear and radiological detection systems and countermeasures; and improved security for our food supply and drinking water."²⁸ The President's reiterated his administration remained focused on winning the "War on Terror" and protecting the homeland:

Our Nation's most critical challenge since September 11, 2001, has been to protect the American people by fighting and winning the War on Terror. Overseas and at home, our troops and homeland security officials are receiving the funding needed to protect our homeland, bring terrorists to justice, eliminate terrorist safe havens and training camps, and shut down their financing.²⁹

AGENCY & YEAR	2000	2001	2002	2003	2004	2005	2006
Defense-Military	\$281,161	\$290,342	\$331,951	\$388,870	\$437,116	\$444,068	\$426,315
Homeland Security	\$13,134	\$15,025	\$17,557	\$31,967	\$26,537	\$33,259	\$33,284

TABLE 1 THE BUDGET FOR FISCAL YEARS 2000–2006 IN BILLIONS OF DOLLARS

The FY06 budget provides DHS and DoD guidance in waging the Global War on Terrorism; it contains information on the President's management priorities along with budget overviews organized by agency. Table 1 reflects the FY outlays by dollar amount and agency.³⁰ In FYs 2002 through 2005, Congress authorized increased funding for both DHS and DoD.³¹

Although overall outlays on military defense far exceeded outlays on homeland security, Congress appropriated significant increases in outlays with a 34% DoD increase and 94% DHS increase. By its authorization and appropriation of funds, Congress directly supports the respective roles, responsibilities, and authorities of the Departments of Homeland Security and Defense and indirectly supports the President's NSS; and, it continues to resource the respective homeland security–homeland defense structures of both departments.

National Security Strategy—DHS and DoD Capabilities within the Interagency

Interagency coordination is the harmonization that occurs between agencies of the US Government, including DHS and DoD, for accomplishing national strategic objectives. The integration of US political objectives and the subsequent translation of these objectives and/or ends are essential to success at the strategic and operational level.

DHS and DoD advance their interagency relationship by supporting the NSS and executing their respective homeland security and national defense roles and responsibilities. Their particular missions intersect where DHS provides a law enforcement function and DoD provides a warfighter function. In accomplishing national security objectives and paralleling their DoD counterparts, DHS strategic leaders must translate the goals of national security policy into credible objectives (ends), achievable through the synchronization of integrated strategic concepts and plans (ways) that employ interagency resources (means). DHS, in concert with DoD and the rest of the interagency, must follow this strategy formulation process to prevent acts of terrorism and secure our borders.

Ultimately, national security is a political, economic, and social objective where homeland security-homeland defense becomes an end state of the US.³² The President's NSS, reinforced by various "supporting strategies" provides the way and/or concepts to achieve these national level end states. In supporting the interagency process, ultimately designed towards these ends, DHS and DoD must coordinate their respective strategies and plans with federal, state, and local agencies.³³ Our national security hinges on the means and/or capabilities of national power to accomplish these security end states whereupon DHS and DoD orchestrate and/or support the successful execution of federal, state, and local action plans.

The NSS provides guidance to defeat terrorist's threats by making "use of every tool in our arsenal—military power, better homeland defenses, law enforcement, intelligence, and vigorous efforts to cut off terrorist financing."³⁴ In addressing their respective authorities and capabilities, the *National Strategy for Homeland Security* and the *National Defense Strategy* provide the templates for bridging the interagency capabilities of the Departments of Homeland Security and

Defense. Accordingly, these documents provide planning guidance for national security policy and strategy as envisioned by the President's NSS.³⁵

In July 2002, the Office of Homeland Security released the *National Strategy for Homeland Security* (NSHS).³⁶ The NSHS emphasized that the year after the terrorist attacks of September 2001, no single government agency had homeland security as its primary mission. In fact, the strategy highlighted that more than one hundred different government organizations assumed responsibility for homeland security functions. The NSHS called for a new Department of Homeland Security and stressed America needed a single, unified homeland security structure that improved protection against the day's threats and allowed flexibility to meet unknown threats of the future.

The NSHS set a broad and complex agenda for the US. It defined the goals that the country must meet, the programs DHS, DoD, and the interagency must implement, and the responsibilities that federal employees must complete. The NSHS's principal purpose was to set goals and indicated, "It is particularly important for government institutions to set priorities explicitly, since these institutions generally lack a clear measure of how successfully they provide value to the citizenry."³⁷

In December 2004, DHS Secretary Tom Ridge released the *National Response Plan* (NRP).³⁸ The NRP established a comprehensive all-hazards approach to enhance the ability of the US to manage domestic incidents. The plan incorporated best practices and procedures from incident management disciplines—homeland security, emergency management, law enforcement, firefighting, public works, public health, response and recovery, worker health and safety, emergency medical services, and, at times, elements from the private sector—and integrated these disciplines into a unified structure. It formed the basis of how the federal government coordinates with state, local, and tribal governments during critical incidents.

A basic NRP premise is that the lowest jurisdictional level generally handles incidents during a critical incident response. However, in an Incident of National Significance such as a major natural disaster, "the Secretary of Homeland Security, in coordination with other federal departments and agencies, initiates actions to prevent, prepare for, respond to, and recover from the incident."³⁹ DHS takes these actions in conjunction with state, local, tribal, nongovernmental, and private sector entities; the department orchestrates the capabilities and resources of those with jurisdictional oversight. The NRP covers the full range of complex and changing requirements in anticipation of or in response to threats or acts of terrorism, major disasters, and other emergencies.⁴⁰

In March 2005, DoD Secretary Donald Rumsfeld released the *National Defense Strategy* (NDS).⁴¹ The NDS outlines DoD's approach to dealing with the many challenges that face the Armed Forces in implementing the President's commitment to the defense of freedom. DoD's intent is to create favorable security conditions around the world and to continue to transform how DoD thinks about security, formulates strategic objectives, and adapts to achieve success. The NDS builds upon the *2001 Quadrennial Defense Review* (QDR)⁴² and provides updated guidance to the *2004 National Military Strategy* (NMS).⁴³

The NDS articulates a broad strategic context for employing military capabilities in concert with other instruments of national power. In turn, the NMS derives its objectives, missions, and capability requirements from an analysis of the NSS, the NDS, and the security environment; it provides focus for military activities by defining a set of interrelated military objectives and joint operating concepts for which the military services identify associated capabilities measured against associated risk.⁴⁴

In June 2005, DoD published its *Strategy for Homeland Defense and Civil Support* (SHDCS) and addressed DoD's roles in homeland defense missions and support to civil authorities. The SHDCS goals and objectives include deterring and preventing attacks, protecting critical defense and designated civilian infrastructure, providing situational understanding, and preparing for and responding to incidents. Under the SHDCS's "lead, support, and enable framework," the strategy recognizes DoD's *lead* role in providing defense of the US, in *supporting* civil authorities, and *enabling* domestic and international partners to improve their homeland defense and homeland security institutions.⁴⁵

The SHDCS refers to the NSHS when it defines homeland security as "a concerted national effort to prevent terrorist attacks within the US, reduce America's vulnerability to terrorism, and minimize the damage and recover from attacks that do occur."⁴⁶ DoD acknowledges DHS's primary mission is to prevent terrorist attacks within the US. Additionally, as the lead federal agency for homeland security, DHS has responsibilities that extend beyond terrorism to preventing, preparing, responding, and recovering from a wide range of major domestic disasters and other emergencies.

The Attorney General heads the Department of Justice (DOJ) and leads our Nation's law enforcement effort to detect, prevent, and investigate terrorist activity within the US. By tradition, and by statutes such as the Posse Comitatus Act of 1878, DoD does not have the authority to seek out and arrest terrorists in the US. These responsibilities reside in DOJ. Likewise, DoD does not have the authority to stop terrorists from coming across our borders,

through US ports, or from hijacking aircraft inside or outside the US. These responsibilities reside in DHS.⁴⁷

The SHDCS defines homeland defense as “the protection of US sovereignty, territory, domestic population, and critical defense infrastructure against external threats and aggression, or other threats as directed by the President.”⁴⁸ DoD is responsible for homeland defense and provides missions such as domestic air defense; therefore, DoD recognizes that threats planned or inspired by “external” actors may materialize internally. DoD’s reference to “external threats” does not limit where or how terrorists plan or execute domestic attacks. Hence, DoD is prepared to conduct homeland defense missions whenever the President, exercising constitutional authority as Commander in Chief, authorizes military actions. Beyond the authority, DHS and DOJ do not have this capability; such authority and capability only resides within DoD.⁴⁹

DoD provides defense support to domestic civil authorities. Such support includes federal military forces, its career civilian and contractor personnel, and DoD agency and component assets, for domestic emergencies and for designated law enforcement activities. DoD provides defense support of civil authorities when directed to do so by the President and/or Secretary of Defense.⁵⁰ The SHDCS is an internal DoD strategy, supplemental in nature, supporting both the NSHS, NDS, and, by extension, the NSS.

In August 2005, the Joint Chiefs of Staff released Joint Publication (JP) 3-26—*Homeland Security*, which provides joint doctrine to guide the Armed Forces in the conduct of homeland security operations.⁵¹ JP 3-26 describes the homeland security framework, mission areas, and related supporting operations and enabling activities. It discusses the Armed Forces legal authorities; joint force, multinational, and interagency relationships; command and control; planning and execution; and training and resource considerations. JP 3-26 governs the joint activities and performance of the US Armed Forces in military operations and provides the doctrinal basis for interagency coordination and US military involvement in multinational operations. It recognizes the dual role the USCG plays in support of its hierarchical DHS and its auxiliary DoD missions; it also references other agencies within DHS such as the USSS and its interaction with DoD.

Recognizing the freedoms guaranteed by the US Constitution, JP 3-26 indicates, “The Nation must have a homeland that is secure from threats and violence, including terrorism.”⁵² According to JP 3-26’s general overview in Chapter 1:

Homeland Security (HS) is the Nation’s first priority, and it requires a national effort. The Department of Defense (DoD) has a key role in that effort. The National Strategy for Homeland Security (NSHS) complements the National

Security Strategy of the United States by providing a comprehensive framework for organizing the efforts of federal, state, local, and private organizations whose primary functions are often unrelated to national security. Critical to understanding the overall relationship is an understanding of the distinction between the role DoD plays with respect to securing the Nation and HS, and the policy of the NSHS, which has the Department of Homeland Security (DHS) as the lead. HS at the national level has a specific focus on terrorist threats. The DoD focus in supporting HS is broader.⁵³

Under JP 3-26's application, US Armed Forces conduct planning and operations to detect, deter, prevent, and defeat threats and aggression aimed at the US, its territories and interests, and to mitigate the impact of adversary actions.⁵⁴ It describes the homeland as the physical region that includes the continental US, Alaska, Hawaii, US territories and possessions, and surrounding territorial waters and airspace; the geographic homeland is the area exposed to the possibility of harm from hostile states or non-state actors. "Military application of the NSHS calls for the preparation, detection, deterrence, prevention, defending, and responding to threats and aggression aimed at the homeland."⁵⁵ Concurrently, law enforcement's "prevent, protect, respond, and recover" application of respective homeland security strategies parallels the military's application of the NSHS.⁵⁶ Lastly, DoD provides military assistance to civil authorities (MACA) including consequence management (CM) activities.

The Preamble states two purposes of the US Constitution are to insure domestic tranquility and provide for common defense.⁵⁷ Congress has the power to declare war, raise and support armies, provide and maintain a Navy, and provide for the calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions; the President is the Commander and Chief of the Armed Forces. Thus, the Constitution provides the fundamental justification for homeland security through the guarantee of domestic tranquility and provision for the common defense of the nation. In supporting the NSS, NSHS, and NDS, the Departments of Homeland Security and Defense have restructured and resourced to meet changing threats. For instance, both DHS and DoD now combat a persistent non-terrorist threat to our national borders posed by the influx of illegal arms, aliens, narcotics, and contraband.

The NSS establishes homeland security as the first priority of the Nation. The Armed Forces' role in homeland security is complex, combining actions overseas and at home to protect the US. The military's first line of defense is abroad; however, closer to home the military uses its capabilities to secure strategic land, sea, air, and space approaches to the US and its territory. When directed, the Armed Forces can employ military capabilities at home to protect the nation, the domestic population, and critical infrastructure from domestic attack.

Protecting the US ultimately requires integrating military capabilities with other government and law enforcement agencies to manage the consequences of attack or natural disaster.

The Intersection of the Departments of Homeland Security and Defense

It is clear, then, that the Department of Homeland Security is the lead federal agency in charge of homeland security, just as the Department of Defense is the lead federal agency for homeland defense. In supporting the NSS, there are many missions where DHS and DoD's respective roles and responsibilities intersect in providing homeland security-homeland defense. Both departments have specific capabilities along with limitations when enforcing laws and executing warfighting functions. Along with these similar capabilities, there are often overlaps of similar missions. For instance, both DHS and DoD are structured and resourced to conduct border security, air and marine domain awareness, and critical infrastructure protection-response. When conducting these missions, federal agencies and the Armed Forces perform in supported and supporting roles with other US executive offices and military commands.

In June 2004, DoD nearly shot down Kentucky Governor Ernie Fletcher's B-200 King Air from the skies over the National Capital Region (NCR) as his aircraft approached Washington Reagan National Airport (DCA).⁵⁸ The Federal Aviation Administration's (FAA) air traffic controllers communicated with the aircrew while radar controllers maintained intermittent contact with an aircraft meeting the B-200 profile. However, DHS who also monitored the NCR airspace detected an aircraft with an inoperable transponder approaching DCA. In responding to a possible NCR air threat, the TSA coordinated a CBP launch of a CE-550 Citation jet and a UH-60 Blackhawk helicopter to interdict the suspect track of interest; simultaneously, TSA coordinated a launch of two US Air Force (USAF) F-16 Falcon jets to interdict the suspect target of interest. DHS and DoD both scrambled aircraft in response to the suspect track/target of interest (TOI) per standard operating procedures; CBP and USAF assets responded in a law enforcement and military defense capacity, respectively.⁵⁹ As the FAA and TSA diffused the situation without further incident, the aircraft landed safely at DCA while the US Capitol Police evacuated Capitol Hill. Coincidentally, the evacuation played out on national television during former President Ronald Reagan's memorial service. Congress soon held hearings on the incident and questioned who acted as the lead agency for air domain security-defense over the skies of Washington, D.C.

In August 2005, a Category 5 hurricane approached the Gulf Coast with great ferocity generating winds in excess of 165 miles per hour. As the National Weather Service downgraded Hurricane Katrina to a Category 4 storm, her winds struck the coastline in excess

of 145 miles per hour. Meanwhile, federal, state, and local government officials attempted a coordinated response as Katrina struck Louisiana and Mississippi. New Orleans initially survived the hurricane's debilitating wind; but, the levees gave out within twenty-four hours and floodwaters submerged the city as many citizens found themselves in a crisis. The horrific natural disaster unfolded on national TV as America called for an immediate critical incident response. Congress demanded that the Bush Administration explain what plans the federal, state, and local governments had in place to respond to such a domestic crisis. Clearly, DHS through FEMA was the lead federal agency for this critical incident response; DoD provided civil support via the active and reserve component.⁶⁰

In the Fletcher incident, Mr. Randy Beardsworth, head of DHS's Border and Transportation Security directorate that included TSA and CBP, addressed questions from congressional staffers.⁶¹ Beardsworth stated advanced radar, computer databases, and other tools used by the multi-agency system including DHS and DoD provide an unprecedented early warning system; the system had detected more than 2,000 aircraft "of interest" over Washington airspace since January 2003. Furthermore, Beardsworth stated that shooting down hostile aircraft is the responsibility of the Defense Department, not his agency, implying DHS possesses neither the authority nor the means for this kind of response.⁶² With Katrina's devastation, DHS Secretary Michael Chertoff testified before the House Select Committee on Homeland Security; he spoke of the communication problems between areas struck by the hurricane and officials back in Washington, D.C. along with the federal government's slow Katrina response.⁶³

The Fletcher and Katrina incidents demonstrate the need for one department to support the other department with the supported agency in temporary lead of the other agency providing support.⁶⁴ In the Fletcher incident, DHS supported DoD with a law enforcement capacity based on a memorandum of understanding; in the Katrina incident, DoD assisted DHS with military civil support based on the NSHS, the NRP, and the SHDCS. Lessons learned from these critical incidents emphasize the *National Security Strategy* calls for interagency coordination, especially between these two departments. Furthermore, lessons learned illustrate the requirement for task force organization and standard operating procedures delineating the roles, responsibilities, and authorities between DHS and DoD.⁶⁵ This is where the two departments require a shared plan for integrating their national security policies and strategies.

A Shared Homeland Security-Defense Plan for DHS and DoD

The National Security Counsel (NSC) is the principal forum to advise the President with respect to the integration of domestic, foreign, and military policies relating to national security.⁶⁶ The members of the NSC constitute the President's personal and principal staff for national security issues. At the strategic level, the current national-level interagency membership includes the NSC Staff, the State Department, the Office of the Secretary of Defense, the Joint Staff representing the Chairman of the Joint Chiefs of Staff, the Department of Homeland Security, and the Intelligence Community. The NSC System (NSCS) is the process to coordinate executive departments and agencies in the effective development and implementation of national policies; the NSCS provides the foundation for interagency coordination in the development and implementation of national security policy.

In December 2003, the Gilmore Commission called for an improved homeland security strategy. A RAND Corporation news release indicated, "The United States needs an improved homeland security strategy to strengthen security in communities facing the greatest risk, improve the use of intelligence, increase the role of state and local officials, and sharpen disaster response capabilities."⁶⁷ The Gilmore Commission's report to President Bush and Congress stated the creation of the Department of Homeland Security has resulted in improved planning and readiness. However, the Commission also concluded that a White House-level entity must direct the overall national homeland security strategy and "must have some clear authority over the homeland security budgets and programs throughout the federal government." The Gilmore Commission continued, "...an existing entity—the Homeland Security Council—is best equipped to craft a new strategic policy that could then be carried out by the Department of Homeland Security, other federal agencies and a host of state, local and private groups."⁶⁸

In providing homeland security-defense among the interagency, the most important factor for DHS and DoD becomes one of coordinating strategies and synchronizing their associated operating plans.⁶⁹ The NSA directed that the function of the NSC "shall be to advise the President with respect to the integration of domestic, foreign, and military policies related to national security" and to coordinate efforts of other departments in support of national security.⁷⁰ Successful national security policy and associated formulation processes depend on the interaction of the NSC and the Homeland Security Council (HSC).

In October 2001, the Bush Administration established the HSC to coordinate "homeland-security related activities of executive departments and agencies" and to develop and implement homeland security policies.⁷¹ Members of the HSC constitute secretaries and heads

of federal departments and agencies with homeland security responsibilities ; the White supports the HSC with its own staff.⁷² The Gilmore Commission asserted that by providing long-term guidance to federal, state, and local government officials, an improved homeland security strategy can help create a “new normalcy” that acknowledges the threat of terrorism will not disappear, but still preserves and strengthens civil liberties.

In formulating US national security policy, the NSC and HSC must synchronize their strategies; the two councils cannot act independently. These national policy makers must use the ends-ways-means framework in developing and implementing national security policy and strategy. They must analyze US policy objectives, coordinate the concepts, courses of actions, and/or methods to achieve those objectives, and determine the resources to support this policy. They must determine if the ends-ways-means framework is in balance and what is the associated risk of this national security policy and strategy. Ultimately, the NSC and HSC must synchronize their strategy formulation process. The NSS provides the ends and suggests the ways for the interagency process; the interagency provides the means.

In confronting threats to our homeland, DHS and DoD leadership must assess their dual HSC and NSC roles and responsibilities—both councils must work in harmony to ensure national security. The homeland security-homeland defense challenge requires a unified response where strategic leadership simultaneously develop fresh concepts that coordinate limited resources to accomplish national objectives. The interagency requires a new plan similar to the NRP model that formulates, coordinates, and applies the ends ways and means to promote, secure, and defend national interests within the US.⁷³

In supporting the President's NSS, this all-discipline homeland security-defense plan must coordinate and/or integrate the NSHS and NDS and establish a single, comprehensive network for the management of national security-defense. The HSC should develop a homeland security plan with the NSC that coordinates homeland defense; it should present the best interagency strategy for implementing a homeland security-defense posture and supporting the NSS. The homeland security-defense plan should establish the relationship of lead and supporting agencies and acquire the endorsement of those department heads. Ultimately, this interagency plan would compel future execution of domestic land, air, and maritime domain security missions, infrastructure protection, and responses to critical incidents.

While the federal government, our military, and the American way of life continue transformations, Americans have reasonable expectations law enforcement will secure our homeland and warfighters will defend this great nation. In achieving the hopes and beliefs of our citizenry, Secretary Chertoff continues evaluating DHS's organization and structure in

meeting the challenge of preventing acts of terrorism and securing our borders. In leading DHS through organizational change, Secretary Chertoff discussed the 2SR:

This is an exciting time for our organization. Change brings opportunity, and after a historic first two years, our young department continues to hold one of the most important and valued roles in government -- the responsibility to protect the safety and security of our nation. It's a mission, which President Bush placed squarely and confidently on our shoulders, and I share his confidence in you. As we face the future, we set these priorities and we make these adjustments always to serve that mission, to protect our families, our fellow citizens, our visitors, and our homeland.⁷⁴

In supporting the President's NSS, DHS and DoD must clearly distinguish that homeland security officials are stewards of the profession of law enforcement and warfighters are sophisticated stewards of the profession of arms. Through a shared strategic vision and a unified homeland security-defense plan for safeguarding our future, our national leadership will meet America's expectations for both national security and defense.

Endnotes

¹ George W. Bush, *The National Security Strategy of the United States of America* (Washington, D.C.: The White House, September 17, 2002), i-iii.

² Ibid., i.

³ Ibid., vii.

⁴ The author acknowledges the Department of Justice (DOJ) has the lead role in investigating acts of terrorism committed against the United States. However, this project examines the intersection of the Department of Homeland Security (DHS) and Department of Defense (DoD) missions in providing homeland security and homeland defense, as one department provides a law enforcement competency while the other department provides a warfighting competency.

⁵ *Department of Homeland Security Home Page*, available from <http://www.dhs.gov/dhspublic>; Internet; accessed 5 September 2005.

⁶ *The National Defense Strategy of the United States of America*, Department of Defense (Washington, D.C.: March 2005), iv.

⁷ On July 26, 1947, President Harry S. Truman signed the National Security Act (NSA); the NSA mandated a major reorganization of the foreign policy and military establishments of the US Government. The Act created many of the institutions that Presidents found useful when formulating and implementing foreign policy, including the National Security Council (NSC). The NSA merged the War Department and Navy Department into a single Department of Defense under the Secretary of Defense, who also directed the newly created Departments of the Army, Navy, and Air Force—each of the three branches maintained their own service secretaries. In

1949, Congress amended the act to give the Secretary of Defense more power over the individual services and their secretaries.

⁸ In his speech before the 106th Congress, President Bush referenced the terrorist attacks of September 11, 2001. *The National Security Strategy of the United States of America*, 29.

⁹ Ibid.

¹⁰ As co-chairs, former US Senators Gary Hart and Warren B. Rudman led the United States Commission on National Security/21st Century (USCNS/21st Century). The USCNS/21st Century, also known as the Hart-Rudman Commission, released three reports on September 15, 1999, April 14, 2000, and February 15, 2001 and recommended a major reorganization of government and the creation of a Department of Homeland Defense. The United States Commission on National Security/21st Century (USCNS/21st Century), "New World Coming: American Security in the 21st Century," The Phase I Report on the Emerging Global Security Environment for the First Quarter of the 21st Century Major Themes and Implications (September 15, 1999), i.

¹¹ In their final report, the Hart-Rudman Commission recommended a Department of Homeland Defense and not a Department of Homeland Security. Ibid.

¹² "Summary of Legislation to Establish a Department of Homeland Security and the National Office for Combating Terrorism, S. 2452, Endorsed by the Senate Governmental Affairs Committee," July 30, 2002; available from <http://hsgac.senate.gov/073002billsummary.html>; Internet; accessed 03 December 2005.

¹³ The Library of Congress, 107th Congress, H.R. 5005, *Homeland Security Act of 2002*; available from <http://thomas.loc.gov/home/terrorlegprev.htm>; Internet; accessed 03 December 2005.

¹⁴ H.R. 5005, and for other purposes - Title I: Department of Homeland Security - (Sec. 101), established a Department of Homeland Security as an executive department of the United States, headed by a Secretary of Homeland Security appointed by the President to also ensure that the functions of the agencies and subdivisions within DHS that are not related directly to securing the homeland are not diminished or neglected except by a specific Act of Congress; ensure that the overall economic security of the US is not diminished by efforts, activities, and programs aimed at securing the homeland; and, monitor connections between illegal drug trafficking and terrorism, coordinate efforts to sever such connections, and otherwise contribute to efforts to interdict illegal drug trafficking. Library of Congress, H.R. 5005, Ibid.

¹⁵ The Bush Administration implemented eighty percent of the Hart-Rudman Commission's recommendations. In overseeing DHS's creation, the White House stood up the Office of Homeland Security (OHS) who contracted services with Booz-Allen-Hamilton to facilitate efforts of moving agencies from their legacy departments to DHS. The Homeland Security Act created the new department when it assumed a number of government functions previously conducted in other departments. DHS superseded, but did not replace OHS, which retained an advisory role. Library of Congress, H.R. 5005, Ibid.

¹⁶ U.S. Department of Homeland Security, *Securing our Homeland, US Department of Homeland Security Strategic Plan* (Washington, D.C.: US Department of Homeland Security, February 24, 2004), 10-45.

¹⁷ The legacy US Customs Service (USCS) management took oversight of US Customs and Border Protection (CBP); the legacy Immigration and Naturalization Service (INS) management took oversight of Immigration and Customs Enforcement (ICE); a combined legacy USCS and INS management oversaw the new Citizenship and Immigration Services (CIS).

¹⁸ Today, DHS is conducting and implementing an internal "Second Stage Review" (2SR) of its organization structure and DHS's many roles and responsibilities; Secretary Michael Chertoff, as the second DHS Secretary, is leading this effort. The 2SR already abolished Border and Transportation Security directorate and moved its policy, plans, and operations oversight to DHS Headquarters. CBP, ICE, and TSA are now stand-alone enforcement agencies along side CIS, FEMA, USCG, and USSS.

¹⁹ Former Pennsylvania Governor Tom Ridge, as the first Secretary of DHS, oversaw the development of the DHS strategic plan that outlines DHS's associated missions, roles, and responsibilities. *US Department of Homeland Security Strategic Plan*, Ibid.

²⁰ Ibid., 27.

²¹ Library of Congress, *1947 National Security Act*, (Sec. 2, 50 U.S.C. 401)," available from http://en.wikipedia.org/wiki/United_States_Department_of_Defense; Internet; accessed 03 December 2005.

²² Library of Congress, *1986 Goldwater-Nichols DoD Reorganization Act*, available from http://en.wikipedia.org/wiki/Goldwater-Nichols_Act_of_1986; Internet; accessed 03 December 2005.

²³ *1947 National Security Act*, Ibid.

²⁴ GEN Peter Pace, Joint Chief of Staff, "The 16th Chairman's Guidance to the Joint Staff: Shaping the Future," memorandum for Joint Chiefs, Washington, D.C.: 1 October 2005, 4.

²⁵ The Chairman of the Joint Chiefs of Staff (CJCS) cannot order DoD to do anything; the CJCS can only give it guidance. Pace, 5.

²⁶ Ibid.

²⁷ For the most part, Congress grants DHS its authority through Title 8 Aliens and Nationality, 19 Customs Duties, and 21 Food and Drugs and DoD its authority through Title 10 Armed Forces, 14 Coast Guard, and 32 National Guard. *Library of Congress*, "U.S. Codes and Authorities," available from <http://uscode.house.gov/about/info.shtml>; Internet; accessed 03 December 2005.

²⁸ President George W. Bush, *Budget Message, Budget of the United States Government, Fiscal Year 2006, Executive Office of the President of the United States*, Office of Management and Budget (Washington, D.C. February 7, 2005), i-ii.

²⁹ Ibid.

³⁰ The Office of Management and Budget's (OMB) *Federal Government Outlays by Agency* displays federal government outlays (on- and off-budget) by agency. These data show DHS funding in previous years that consists of spending attributable to predecessor agencies in earlier years, but now attributable to the new department. Office of Management and Budget, Table 1—*Federal Government Outlays by Agency*, Notes on Section 4, available from <http://www.gpoaccess.gov/usbudget/fy06/browse.html>; Internet; accessed 04 January 2006.

³¹ Although the 2002 *Homeland Security Act* created DHS, the department first formulated and executed its own budget in Fiscal Year 2004. While homeland security (DHS) shows a dip in 2004 outlays, this drop reflects the transfer in budget formulation from its legacy agencies to DHS. Ibid.

³² This paper makes a clear distinction between homeland security—headed by the Department of Homeland Security and supported by the Department of Defense and the rest of the interagency—and homeland defense—headed by the Department of Defense and supported by the Department of Homeland Security and the rest of the interagency. Hence, these become end states.

³³ This project borrows heavily from the *National Strategy for Homeland Security* (NSC Staff, July 2002) and the *National Defense Strategy* (OSD, March 2005).

³⁴ *National Security Strategy*, iii.

³⁵ In addition to the *National Strategy for Homeland Security* and the *National Defense Strategy*, "National Security Documents" that support the *National Security Strategy* include the *National Strategy for Combating Terrorism* (NSC Staff, February 2003), the *National Strategy to Combat Weapons of Mass Destruction* (NSC Staff, December 2002), the *National Intelligence Strategy* (Office of DNI, October 2005), and *Strategic Plan, Fiscal Year 2004-2006* (State/USAID, August 2003).

³⁶ *The National Strategy for Homeland Security*, Office of Homeland Security, (Washington, D.C.: July 2002), vii.

³⁷ Ibid., 67.

³⁸ *The National Response Plan*, Department of Homeland Security, (Washington, D.C.: December 2004.), i.

³⁹ DHS borrowed from its first strategic plan released in February 2004 and incorporated many of its goals and objectives into the *National Response Plan*. Ibid., 15.

⁴⁰ Ibid., 3.

⁴¹ *The National Defense Strategy of the United States of America*, Department of Defense, (Washington, D.C., March 2005), iv.

⁴² *Quadrennial Defense Review*, Department of Defense (Washington, D.C., September 30, 2001).

⁴³ *National Military Strategy of the United States of America—A strategy for Today; a Vision for Tomorrow*, Chairman of the Joint Chiefs of Staff, (Washington, D.C.: 2004).

⁴⁴ *Ibid.*, 2.

⁴⁵ *Strategy for Homeland Defense and Civil Support*, Department of Defense, (Washington, D.C.: June 2005), 2-4.

⁴⁶ *Ibid.*, 5.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ In the performance of official duties, federal, state, and local law enforcement officers carry personal side arms in the event they need to employ “the use of deadly force” to protect themselves and public citizens.

⁵⁰ Examples include support to National Security Special Events (NSSEs). *Strategy for Homeland Defense and Civil Support*, 5-6.

⁵¹ Joint Publication (JP) 3-26—*Homeland Security*, Joint Chiefs of Staff, (Washington, D.C.: 2 August 2005).

⁵² *Ibid.*, v.

⁵³ *Ibid.*, I-2-I-3.

⁵⁴ *Ibid.*, I-3.

⁵⁵ *Ibid.*

⁵⁶ *US Department of Homeland Security Strategic Plan*, 8.

⁵⁷ *Ibid.*, A-1.

⁵⁸ The air defense system for Washington is unique, and many of its operations are classified. Unveiled in January 2003, DHS and DoD created the joint system to track all flights and to intercept aircraft that do not follow strict protocols. It replaced the fighter patrols that guarded the nation's capital beginning Sept. 11, 2001, a defense that was costly and did not provide federal authorities with the tools to investigate whether there were patterns in the violations. Spencer S. Hsu, “Plane That Caused Capitol Evacuation Nearly Shot Down,” *Washington Post*, July 8, 2004, p. A01.

⁵⁹ In referencing TOIs, DHS defines a TOI as a track of interest and DoD defines a TOI as a target of interest. DHS's interest is in tracks of interest that fit a suspicious or possible criminal profile, while DoD's interest is in targets of interest that fit a hostile or possible threat profile. Regardless of the intent, both departments use the same tactics in interdicting the TOI; however, DHS's interest is from a law enforcement perspective and DoD's interest is from a military defense perspective. DHS conducts the air domain awareness mission from its radar facility at March ARB, CA; DHS provides this common air operation picture to NORAD.

⁶⁰ DoD responded with 22,000 Active Component personnel on top of the 50,000 National Guardsmen—DoD's deployment of military resources in support of civil authorities after Hurricane Katrina has exceeded, in speed and size, any other domestic disaster relief mission in the history of the US. "The ability of our military forces -- Active Duty, Reserves, and the National Guard -- to respond quickly and effectively to an event of this magnitude is a testament to their readiness, agility, and professionalism. It is also a reflection of the resources provided by Congress that enable them to organize, train, and equip to meet the full range of DoD's missions." Statement of Paul McHale Assistant Secretary, Defense for Homeland Defense U.S. Department of Defense Committee on House Government Reform Subcommittee on Select Katrina Response Investigation; Federal Document Clearing House Congressional Testimony, "*Congressional Quarterly, Inc.*" October 27, 2005.

⁶¹ Mr. Randy Beardsworth was the head of the former DHS directorate that included the Transportation and Security Administration, Immigration and Customs Enforcement, and Customs and Border Protection, formerly known as BTS—Border of Transportation Security. Secretary Chertoff absorbed BTS's functions into DHS Headquarters as result of the Department's Second Stage Review (2SR). Chu, A02.

⁶² During the Governor Fletcher incident, the US Air Force could have exercised their unique rules of engagement capability granted under the National Command Authority and shot down the suspect track/target of interest.

⁶³ On October 18, 2005, DHS Secretary Michael Chertoff testified before the House Select Committee on Katrina and spoke on the federal government's response to Hurricane Katrina. Chris Strohm, "DHS Chief Describes Confusion in Katrina Response," GovExec.com, Washington, D.C., October 19, 2005, Story 2.

⁶⁴ The Fletcher and Katrina incidents illustrate two examples of mutual capabilities with differing roles and responsibilities. Both incidents represent support in air domain security and critical incident response, respectively. DHS and DoD also provide support in maritime domain security and border security. In the Persian Gulf, the Coast Guard routinely provides the US Navy law enforcement support in the escort and security of commercial shipments. In Southern New Mexico, US Army Striker teams provide ongoing surveillance support to CBP's Border Patrol.

⁶⁵ The Secretary of the Army clearly articulated the delineation of missions, roles, responsibilities, and authorities between the interagency, when he spoke before the US Army War College. Likewise, Secretary Harvey indicated the Department of the Army must provide the necessary forces and capabilities to the combatant commanders in support of the *National Security Strategy* and *National Defense Strategy*. Honorable Dr. Francis J. Harvey, presentation to the United States Army War College, September 14, 2005.

⁶⁶ The National Security Council itself includes the President, Vice President, Secretary of State, Secretary of Defense, and other members (such as the Director of the Central Intelligence Agency), who met at the White House to discuss both long-term problems and more immediate national security crises.

⁶⁷ The formal title of the federally chartered Gilmore Commission, created in 1999, is the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction. Former Virginia Governor James S. Gilmore III chaired the commission that

shares his name; the RAND Corporation provided staff support to the commission. Press Release, *The Gilmore Commission Calls for an Improved Homeland Security Strategy*, RAND Corporation, December 12, 2003.

⁶⁸ Ibid.

⁶⁹ Alan G. Whittaker, Frederic C. Smith, and AMB Elizabeth McKune, *"The National Security Policy Process: the National Security Council and the Interagency System,"* (Washington, D.C.: National Defense University, August 2005) 6-55.

⁷⁰ Ibid., 12.

⁷¹ Ibid., 42.

⁷² *Department of Homeland Security Home Page.*

⁷³ This homeland security-defense plan would primarily involve the Departments of Homeland Security and Defense but would include other departments from within the Interagency. The plan would satisfy a specific need for increased, advanced coordination in homeland security-defense.

⁷⁴ Secretary Michael Chertoff, U.S. Department of Homeland Security, Second Stage Review Remarks, Washington, D.C., July 13, 2005.